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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,012	05/14/2001	Kamran K. Shokoohi	5218-000001	1189
27572	7590	07/14/2004	EXAMINER	
HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303			SHAY, DAVID M	
			ART UNIT	PAPER NUMBER
			3739	
DATE MAILED: 07/14/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/855,012

Applicant(s)

Shobkovich

Examiner

J. Hay

Group Art Unit

3739

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on March 22, 2004.
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 2-6, 10, 11, 15-18, & 20-29 ~~is~~ are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ ~~is~~ are allowed.
- ☒ Claim(s) 2-6, 10, 11, 15-18, 20-25 & 27-29 is/are rejected.
- ☒ Claim(s) 26 ~~is~~ are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 2-6, 10, 11 and 20-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marshall in combination with Meserol and Chen et al ('340). Marshall teaches a device as claimed wherein the battery is mounted to the device via the cord, except for the express teachings of a focused source, a tear drop shape, and forming the device of plastic. Chen et al ('340) teach the equivalence of straps and adhesive for attaching a shield to the skin and forming such shield from plastic. Meserol teaches that a single illuminating devices can illuminate several areas using fiber optics, the use of an adhesive rim, and controlling the area exposed to light. It would have been obvious to the artisan of ordinary skill to employ a single light source, since optic fibers are typically used to distribute the light and since use of a single in Marshall would reduce cost, and to provide a teardrop shape to cover only the area of interest, since this is known in the art as shown by Meserol, and to employ an adhesive on a planar rim, as taught by Meserol to perform the function of the strap of Marshall as shown in Figure 3 thereof since adhesives and straps are equivalents for attaching to skin as shown by Chen and wherein the strap is a substantially planar portion, thus producing a device such as claimed.

Claims 15-18 and 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marshall in combination with Meserol and Chen et al ('340) as applied to claims 2-6, 10,11,and 20-25 are above, and further in view of Ruiz. Ruiz teaches the desirability of topical anesthesia in a laser surgical method. It would have been obvious to the artisan of ordinary skill to employ topical anesthesia, since this would allow the surgery to proceed painlessly, as taught by Ruiz and to subsequently discard the device thus producing a method such as claimed.

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While, due to the “comprising” type claim structure employed by applicant the examiner notes that this claim structure also encompasses a device with a single light and additional light sources are well.

Applicant argues that Chen et al is non analogues art. The examiner cannot agree. It is noted that according to the holding of In re Ellis, 177 USPQ 526 analogues art is determined by not only the art involved in the invention per se, but also encompass those fields wherein a likely solution to the problem solved by applicant may be found, The examiner submits that the problem of securing articles to parts of the body and particularly to skin in general is germane to the clothing art and thus one having ordinary skill in the art, seeking to secure an article to a body part or to the skin per se would naturally turn to the appraisal art to find a solution.

As applicant has argued the claims as though they preclude the use of multiple light sources, the examiner has provided a rejection which meets the argued limitation.

Claim 26 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's arguments with respect to claims 2-6, 10, 11, 15-18, and 20-29 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to David Shay at telephone number 308-2215.

Shay/DI

June 16, 2004

A handwritten signature in black ink, appearing to read 'David M. Shay', enclosed within a circular flourish.

DAVID M. SHAY
PRIMARY EXAMINER
GROUP 330